

**CHAPTER 4
RULES OF ORIGIN**

**SECTION 4-A
GENERAL PROVISIONS**

**Article 4.1
Definitions**

For the purposes of this Chapter:

- (a) **aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;
- (b) **competent authorities** means the Ministry of Customs and Trade for Turkey and the Ministry of International Trade and Industry for Malaysia;
- (c) **consignment** means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;
- (d) **customs value** means the value determined in accordance with Agreement on Customs Valuation;
- (e) **ex-works price** means the price paid for the product ex-works to the manufacturer in Turkey or in Malaysia in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes which are, or may be, repaid when the product obtained is exported;
- (f) **generally accepted accounting principles (GAAP)** means the recognised consensus or substantial authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;
- (g) **manufacture** means any kind of working or processing including assembly or specific operations;
- (h) **material** means any matter or substance including raw materials, ingredients, parts, and components used or consumed in the production of goods or physically incorporated into goods subjected to a process in the production of other goods;
- (i) **non-originating good** or **non-originating material** means a good or material which does not qualify as originating under this Chapter;
- (j) **originating good** or **originating material** means a good or material that

qualify as originating under this Chapter;

- (k) **packing materials** or **containers for transportation** means goods used to protect a good during its transportation, different from those containers or materials used for its retail sale;
- (l) **product** means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- (m) **production** means methods of obtaining goods including growing/planting, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, aquaculture, manufacturing, producing, processing or assembling a good;
- (n) **value of materials** means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the non-originating materials in Turkey or in Malaysia; and
- (o) **value of originating materials** means the customs value at the time of importation of the originating materials used, if they are imported, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the originating materials in Turkey or in Malaysia.

SECTION 4-B DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS”

Article 4.2 Originating Products

For the purpose of implementing this Agreement, the following products shall be considered as originating in a Party:

- (a) products wholly obtained in that Party within the meaning of Article 4.4 (Wholly Obtained Products); and
- (b) products produced in that Party incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in that Party within the meaning of Article 4.5 (Sufficiently Worked or Processed Products).

Article 4.3 Cumulation of Origin

1. Without prejudice to the provisions of Article 4.2 (Originating Products), materials originating in a Party shall be considered as materials originating in the other Party when incorporated into a product there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond the operations referred to in Article 4.6 (Insufficient/Minimal Working or Processing).

2. Notwithstanding paragraph 1, materials falling under HS Chapters 25 to 97 originating in the European Union shall be considered as materials originating in Turkey or Malaysia when further processed or incorporated into a product obtained there.

3. In order for the products referred to in paragraph 2 to acquire originating status, it shall not be necessary that the materials have undergone sufficient working or processing, provided that:

- (a) the working or processing of the materials carried out in Turkey or Malaysia goes beyond the operations referred to in Article 4.6 (Insufficient/Minimal Working or Processing);
- (b) the materials were originating in the European Union, in application of rules of origin identical to those applicable if the said materials were exported directly to Turkey or Malaysia; and
- (c) Turkey, Malaysia and the European Union have arrangements which allow for adequate administrative cooperation procedures ensuring full implementation of this cumulation mechanism as well as of Articles on certification and on verification of origin of the products.

4. The cumulation established in paragraphs 2 and 3 shall be applied provided that preferential trade agreements in accordance with Article XXIV of GATT 1994 between Turkey, Malaysia and the European Union, respectively, are in force.

5. Notwithstanding paragraph 1, materials falling under HS Chapters 25 to 97 originating in a member of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN") shall be considered as materials originating in Turkey or Malaysia when further processed or incorporated into a product obtained there.

6. In order for the products referred to in paragraph 5 to acquire originating status, it shall not be necessary that the materials have undergone sufficient working or processing, provided that:

- (a) the working or processing of the materials carried out in Turkey or Malaysia goes beyond the operations referred to in Article 4.6 (Insufficient/Minimal Working or Processing);
- (b) the materials were originating in a member of ASEAN, in application of rules of origin identical to those applicable if the said materials were exported directly to Turkey or Malaysia; and
- (c) Turkey, Malaysia and the relevant member of ASEAN have arrangements which allow for adequate administrative cooperation procedures ensuring

full implementation of this cumulation mechanism as well as of Articles on certification and on verification of origin of the products.

7. The cumulation established in paragraphs 5 and 6 shall be applied provided that preferential trade agreements in accordance with Article XXIV of GATT 1994 between Turkey, Malaysia and the relevant member of ASEAN, respectively, are in force.

Article 4.4 Wholly Obtained Products

1. The following shall be considered as wholly obtained in Turkey or in Malaysia:
 - (a) minerals and other naturally occurring substances, not included in subparagraphs (b) to (e), extracted or taken from its soil, water, seabed or beneath the seabed of a Party;
 - (b) plant and plant goods, including fruits, flowers, vegetables, trees, seaweed, fungi and live plants, grown, cultivated, planted, harvested, picked, or gathered in the territory of a Party;
 - (c) live animals born and raised in the territory of a Party;
 - (d) products from live animals raised there;
 - (e) goods obtained from hunting, trapping, fishing, farming, cultivating, planting, growing, aquaculture, gathering, or capturing in the territory of a Party;
 - (f) products of sea fishing and other products taken from the sea including shellfish and other marine life or marine goods outside the territorial waters of Turkey or of Malaysia by their vessels;
 - (g) goods obtained, processed or produced on board their factory ships exclusively from products referred to in subparagraph (f);
 - (h) used articles collected there which can no longer perform their original purpose nor are capable of being restored or repaired and are fit only for the recovery of raw materials;
 - (i) waste, scrap or used goods collected in the territory of a Party which can no longer perform their original purpose nor are capable of being restored or repaired and are fit only for the recovery of raw materials;
 - (j) goods taken from the waters, seabed or beneath the seabed outside the territorial waters of that Party, provided that Party has the rights to exploit such waters, seabed and beneath the seabed in accordance with international law; and
 - (k) goods produced in the territory of a Party solely from goods referred to in subparagraphs (a) to (j) or from their derivatives, at any stage of production.

2. The terms “their vessels” and “their factory ships” in subparagraphs 1(f) and (g) shall apply only to vessels and factory ships:

- (a) which are registered in Turkey or in Malaysia;
- (b) which sail under the flag of Turkey or of Malaysia;
- (c) which meet one of the following conditions:
 - (i) they are at least 50% owned by nationals of Turkey or of Malaysia; or
 - (ii) they are owned by companies:
 - (AA) which have their head office and their main place of business in Turkey or in Malaysia; and
 - (BB) which are at least 50% owned by Turkey or by Malaysia, by public entities or nationals of one of those Parties.

Article 4.5 **Sufficiently Worked or Processed Products**

1. For the purposes of subparagraph (b) of Article 4.2 (Originating Products), products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the list in Annex 4-2 are fulfilled. The conditions referred to above indicate, for all products covered by this Agreement, the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such materials. It follows that if a product which has acquired originating status by fulfilling the conditions set out in the list is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

2. By way of derogation from paragraph 1 and subject to paragraphs 3 and 4, non-originating materials which, according to the conditions set out in the list in Annex 4-2 are not to be used in the manufacture of a given product may nevertheless be used, provided that their total value or net weight assessed for the product does not exceed:

- (a) 10% of the weight of the product for products falling under Chapter 2 and within Chapters 4 to 24 of the Harmonized System, other than processed fishery products of Chapter 16;
- (b) 10% of the ex-works price of the product for other products, except for products falling within Chapters 50 to 63 of the Harmonized System, for which the tolerances mentioned in Notes 6 and 7 of Annex 4-1, shall apply.

3. Paragraph 2 shall not allow to exceed any of the percentages for the maximum content of non-originating materials as specified in the rules laid down in the list in Annex 4-2.

4. Paragraphs 2 and 3 shall not apply to products wholly obtained in a Party within the meaning of Article 4.4 (Wholly Obtained Products). However, without prejudice to Article 4.6 (Insufficient/Minimal Working or Processing) and paragraph 2 of Article 4.7 (Unit of Qualification), the tolerance provided for in those paragraphs shall nevertheless apply to the sum of all the materials which are used in the manufacture of a product and for which the rule laid down in the list in Annex 4-2 for that product requires that such materials be wholly obtained.

Article 4.6 **Insufficient/Minimal Working or Processing**

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 4.5 (Sufficiently Worked or Processed Products) are satisfied:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages; change of packaging or presenting products for sale;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) simple painting and polishing operations;
- (e) sharpening, slitting, simple coiling and uncoiling, bending, simple grinding or simple cutting;
- (f) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
- (g) ironing or pressing of textiles;
- (h) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (i) operations to colour or flavour sugar or form sugar lumps; partial or total milling of crystal sugar;
- (j) peeling, stoning and shelling of fruits, nuts and vegetables;
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any material;

- (n) simple addition of water or dilution or dehydration or denaturation of products;
- (o) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (p) slaughter of animals; and
- (q) a combination of two or more operations specified in subparagraphs (a) to (p).

2. All operations carried out either in Turkey or in Malaysia on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.

3. For the purposes of paragraph 1, operations shall be considered simple when neither special skills nor machines, apparatus or tools especially produced or installed for those operations are required for their performance.

Article 4.7 Unit of Qualification

1. The unit of qualification for the application of the provisions of this Chapter shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonized System. It follows that:

- (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonized System in a single heading, the whole constitutes the unit of qualification;
- (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each product must be taken individually when applying the provisions of this Chapter.

2. Where, under General Rule 5 of the Harmonized System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Article 4.8 Accessories, Spare Parts and Tools

1. Accessories, spare parts, tools and instructional or other information materials delivered with a good that form part of the good's standard accessories, spare parts, tools and instructional or other information materials shall be regarded as a part of the good, and shall be disregarded in determining whether or not all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification provided that:

- (a) the accessories, spare parts, tools and instructional or other information materials are classified with and not invoiced separately from the good; and

(b) the quantities and value of the accessories, spare parts, tools and instructional or other information materials are customary for the good.

2. The value of packages and packing materials for retail sale, shall be taken into account in determining the origin of that good as originating or non-originating, as the case may be, provided that the packages and packing materials are considered to be forming a whole with the good.

3. If a good is subject to the change in tariff classification criterion provided in Annex 4-2, packages and packing materials classified together with the packaged good, shall not be taken into account in determining origin.

4. Packing materials and containers used exclusively for the transportation of a good shall not be taken into account in determining the origin of such goods.

Article 4.9 Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15% of the ex-works price of the set.

Article 4.10 Neutral Elements

In order to determine whether a product originates, it shall not be necessary to determine the origin of the following, which might be used in its production and not physically incorporated into the good, which includes the following:

- (a) energy, fuel, catalysts and solvents;
- (b) plant and equipment;
- (c) machines, tools, dies and moulds;
- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting goods; and
- (g) goods which do not enter and which are not intended to enter into the final composition of the product.

SECTION 4-C TERRITORIAL REQUIREMENTS

Article 4.11
Principle of Territoriality

1. Except as provided for in Article 4.3 (Cumulation of Origin), the conditions set out in Section 4-B (Definition of the Concept of “Originating Products”) relating to the acquisition of originating status must be fulfilled without interruption in a Party.
2. If originating goods exported from a Party to a non-Party return, they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the customs authorities that:
 - (a) the returning goods are the same as those exported; and
 - (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that non-Party or while being exported.

Article 4.12
Direct Consignment

1. The products declared for importation in a Party shall be the same products as exported from the other Party in which they are considered to originate. They shall not have been altered, transformed in any way or subjected to operations other than operations to preserve them in good condition, prior to being declared for import. Storage of products or consignments and splitting of consignments may take place where carried out under the responsibility of the exporter or of a subsequent holder of the goods and the products remain under customs supervision in the country(ies) of transit.
2. Compliance with paragraph 1 shall be considered as satisfied unless the customs authorities have reason to believe the contrary; in such cases, the customs authorities may request the declarant to provide evidence of compliance, which may be given by any means, including contractual transport documents such as bills of lading or factual or concrete evidence based on marking or numbering of packages or any evidence related to the goods themselves.

Article 4.13
Exhibitions

1. Originating products sent for exhibition in a third country and sold after the exhibition for importation in Turkey or in Malaysia shall benefit on importation from the provisions of the Agreement, provided it is shown to the satisfaction of the customs authorities that:
 - (a) an exporter has consigned these products from Turkey or from Malaysia to the country in which the exhibition is held and has exhibited them there;
 - (b) the products have been sold or otherwise disposed of by that exporter to a person in Turkey or in Malaysia;
 - (c) the products have been consigned during the exhibition or immediately thereafter in the state in which they were sent for exhibition; and

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A proof of origin must be issued or made out in accordance with the provisions of Section 4-E (Proof of Origin) and submitted to the customs authorities of the importing Party in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display, which is not organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

SECTION 4-D DRAWBACK OR EXEMPTION

Article 4.14 Drawback of, or Exemption from, Customs Duties

After two years from the entry into force of this Agreement, upon the request of either Party, the Joint Committee shall review the operation of duty drawback and inward processing schemes of the Parties. The Joint Committee may establish the criteria to review duty drawback and inward processing issues of the Parties and may consider prohibiting the application of duty drawback.

SECTION 4-E PROOF OF ORIGIN

Article 4.15 General Requirements

1. Products originating in Turkey shall, on importation into Malaysia and products originating in Malaysia shall, on importation into Turkey, benefit from this Agreement upon submission of either:

- (a) a Certificate of Origin, a specimen of which appears in Annex 4-3; or
- (b) in the cases specified in paragraph 1 of Article 4.21 (Conditions for Invoice Declaration), a declaration, the text of which appears in Annex 4-4, given by the exporter on an invoice, a delivery note or any other commercial document which describes the products concerned in sufficient detail to enable them to be identified (hereinafter referred to as the “**invoice declaration**”).

2. Notwithstanding paragraph 1, originating products within the meaning of this Chapter shall, in the cases specified in Article 4.27 (Exemption from Proof of Origin), benefit from this Agreement without it being necessary to submit any of the documents referred to above.

Article 4.16
Procedure for the Issuance of Certificate of Origin

1. A Certificate of Origin shall be issued by the competent authorities of the exporting Party on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorized representative.
2. For this purpose, the exporter or his authorized representative shall fill out Certificate of Origin specimen of which appears in Annex 4-3. The form shall be completed in English and in accordance with the provisions of the domestic law of the exporting Party. If it is handwritten, it shall be completed clearly and legibly in ink and printed characters. In that case, neither erasures nor alterations shall be allowed on the form. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.
3. The exporter applying for the issue of Certificate of Origin shall be prepared to submit at any time, at the request of the competent authorities of the exporting Party where the Certificate of Origin is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Chapter.
4. A Certificate of Origin shall be issued by the competent authorities of Turkey or of Malaysia if the products concerned can be considered as products originating in Turkey or in Malaysia and fulfil the other requirements of this Chapter.
5. The competent authorities issuing Certificate of Origin shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Chapter. For this purpose, the Customs Authorities shall, in accordance with its domestic legislation, have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.
6. The issuing competent authorities shall also ensure that the form referred to in paragraph 2 is duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.
7. The date of issue of Certificate of Origin shall be indicated in Box 11 of the certificate.
8. A Certificate of Origin shall be issued by the competent authorities and made available to the exporter as soon as actual exportation has been effected or made known.

Article 4.17
Certificate of Origin Issued Retrospectively

1. Notwithstanding paragraph 8 of Article 4.16 (Procedure for the Issuance of Certificate of Origin), a Certificate of Origin may exceptionally be issued after exportation but not later than 12 months from the date of exportation of the products

to which it relates if:

- (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
 - (b) it is demonstrated to the satisfaction of the customs authorities or other competent authorities that a Certificate of Origin was issued, but was not accepted at importation for technical reasons.
2. For the implementation of paragraph 1, the exporter must indicate in his application the place and date of exportation of the products to which the Certificate of Origin relates, and state the reasons for his request.
 3. The competent authorities may issue a Certificate of Origin retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.
 4. Certificate of Origin issued retrospectively must bear with the words "ISSUED RETROSPECTIVELY". The endorsement shall be inserted in the 'Remarks' box of the Certificate of Origin.

Article 4.18 Issuance of a Duplicate Certificate of Origin

1. In the event of theft, loss or destruction of a Certificate of Origin, the exporter may apply to the competent authorities which issued it for a duplicate to be made out on the basis of the export documents in their possession.
2. The duplicate Certificate of Origin will indicate the date of issuance of the original Certificate of Origin and shall take effect as from the original date.

Article 4.19 Issuance of Certificate of Origin on the Basis of a Proof of Origin Issued or Made out Previously

When originating products are placed under the control of a customs office in Turkey or Malaysia, the original proof of origin may be replaced by one or more proof of origin for the purpose of sending all or some of these products elsewhere within a Party. The replacement proof(s) of origin shall be issued by the customs office in Turkey under whose control the products are placed or competent authorities in Malaysia.

Article 4.20 Identical and Interchangeable Materials

The determination of whether identical and interchangeable materials are originating materials shall be made either by physical segregation of each of the materials, or by the use of generally accepted accounting principles of stock control, or inventory management applicable in the exporting Party.

Article 4.21 Conditions for Invoice Declaration

1. An invoice declaration as referred to in subparagraph 1(b) of Article 4.15 (General Requirements) may be made out:

(a) by an approved exporter within the meaning of Article 4.22 (Approved Exporter); or

(b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed USD10,000.

2. An invoice declaration may be made out if the products concerned can be considered as products originating in Turkey or in Malaysia and fulfil the other requirements of this Chapter.

3. The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the customs authorities or other competent authorities of the exporting Party, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Chapter.

4. An invoice declaration shall be made out by the exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document, the declaration in English, the text of which appears in Annex 4-4, and in accordance with the provisions of the domestic law of the exporting Party. If they are handwritten, they shall be completed clearly and legibly in ink in printed characters. In that case, neither erasures nor alterations shall be allowed on these forms.

5. Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Article 4.22 (Approved Exporter) shall not be required to sign such declarations provided that he gives the customs authorities or other competent authorities of the exporting Party a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.

6. An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing Party no longer than 12 months after the importation of the products to which it relates.

Article 4.22 Approved Exporter

1. The competent authorities of the exporting Party may authorize any exporter as “approved exporter” who makes frequent shipments of products under this Agreement to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the competent authorities evidence of the originating status of the products as well as the fulfilment of the other requirements of this Chapter.

2. The competent authorities may grant the status of approved exporter subject to any conditions which they consider appropriate.

3. The competent authorities shall grant to the approved exporter a customs authorisation number or reference number which shall appear on the invoice declaration.

4. The competent authorities shall monitor the use of the authorization by the approved exporter.

5. The competent authorities may withdraw the authorization at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, does not fulfil the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorization.

6. The competent authorities responsible for the implementation of the verification of proof of origin within the meaning of Article 4.33 (Verification of Proofs of Origin) may inform each other on the changes in granting authorizations to the approved exporters and may also mutually exchange the updated lists.

Article 4.23 Third Party Invoice

The competent authorities of the importing Party may accept Certificate of Origin or invoice declaration in cases where the invoice is issued either by a company located in a third country or by an exporter for the account of that company, provided that the goods meet the requirements of this Chapter.

Article 4.24 Validity of Proof of Origin

1. A proof of origin shall be valid for 12 months from the date of issue in the exporting Party, and must be submitted within the said period to the customs authorities of the importing Party.

2. Proofs of origin which are submitted to the customs authorities of the importing Party after the final date for presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.

3. In other cases of late presentation, the customs authorities of the importing Party may accept the proofs of origin where the products have been presented to customs before the said final date.

Article 4.25 Submission of Proof of Origin

Proofs of origin shall be submitted to the customs authorities of the importing Party in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the requirements of this Chapter.

Article 4.26
Importation by Instalments

Where, at the request of the importer and on the conditions laid down by the customs authorities of the importing Party, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonized System falling within Sections XVI and XVII or heading Nos. 7308 and 9406 of the Harmonized System are imported by instalments, a single proof of origin for such products shall be submitted to the customs authorities upon importation of the first instalment.

Article 4.27
Exemptions from Proof of Origin

1. Products sent as small packages from private persons to private persons from Malaysia to Turkey or forming part of travellers' personal luggage travelling from Malaysia to Turkey shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Chapter and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post from Malaysia to Turkey, this declaration can be made on the customs declaration CN22/CN23 or on a sheet of paper annexed to that document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families from Malaysia to Turkey shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

3. Furthermore, the total value of these products referred to paragraphs 1 and 2 shall not exceed EUR500 in the case of small packages or EUR1,200 in the case of products forming part of travellers' personal luggage.

4. In the case of consignments of goods originating in Turkey and exported to Malaysia and not exceeding USD200 FOB, the requirement of a proof of origin may be waived, provided that the importation does not form part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of proof of origin.

Article 4.28
Supporting Documents

The documents referred to in paragraph 3 of Article 4.16 (Procedure for the Issuance of Certificate of Origin) and paragraph 3 of Article 4.21 (Conditions for Invoice Declaration) used for the purpose of proving that products covered by a Certificate of Origin or an invoice declaration can be considered as products originating in Turkey or in Malaysia and fulfil the other requirements of this Chapter may consist, *inter alia*, of the following:

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;

- (b) documents proving the originating status of materials used, issued or made out in Turkey or in Malaysia;
- (c) documents proving the working or processing of materials in Turkey or Malaysia, issued or made out in Turkey or in Malaysia; and/or
- (d) Certificate of Origin or invoice declarations proving the originating status of materials used, issued or made out in Turkey or in Malaysia in accordance with this Chapter.

Article 4.29
Preservation of Proof of Origin and Supporting Documents

1. The exporter applying for the issue of a Certificate of Origin shall keep for at least three years the documents referred to in paragraph 3 of Article 4.16 (Procedure for the Issuance of Certificate of Origin).
2. The exporter making out an invoice declaration shall keep for at least three years a copy of this invoice declaration as well as the documents referred to paragraph 3 of Article 4.21 (Conditions for Invoice Declaration).
3. The competent authorities of the importing Party shall keep for at least three years the Certificate of Origins and the invoice declarations submitted to them.

Article 4.30
Discrepancies and Formal Errors

1. The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the products may not *ipso facto* render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.
2. Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

Article 4.31
Amounts Expressed in USD or EUR

1. For the application of the provisions of subparagraph 1(b) of Article 4.21 (Conditions for Invoice Declaration) and Article 4.27 (Exemption from Proof of Origin) in cases where products are invoiced in a currency other than USD or EUR, amounts in the national currencies of Turkey and of Malaysia equivalent to the amounts expressed in USD or EUR shall be fixed annually by each of the countries concerned.
2. A consignment shall benefit from the provisions of subparagraph 1(b) of Article 4.21 (Conditions for Invoice Declaration) or Article 4.27 (Exemption from Proof of Origin) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the country concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in USD or EUR as at the first working day of October and shall be applied from 1 January the following year. The Parties shall communicate the amounts to each other by 15 October.

4. Turkey or Malaysia may round up or down the amount resulting from the conversion into its national currency of an amount expressed in USD or EUR. The rounded-off amount may not differ from the amount resulting from the conversion by more than 5%. Turkey or Malaysia may retain unchanged its national currency equivalent of an amount expressed in USD or EUR if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than 15% in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion would result in a decrease in that equivalent value.

5. The amounts expressed in USD or EUR shall be reviewed by the Joint Committee at the request of Turkey or of Malaysia. When carrying out this review, the Joint Committee shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in USD or EUR.

SECTION 4-F ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

Article 4.32 Mutual Assistance

1. Each Party shall inform the other Party of the names and addresses of its respective Competent Authorities to issue the Certificate of Origin and verify the proofs of origin, and shall provide the official seals used by the said authorities. Any change in names, addresses, specimen signatures or official seals shall be promptly informed in the same manner.

2. In order to ensure the proper application of this Chapter, Turkey and Malaysia shall assist each other, through the competent customs administrations and relevant competent and duly authorized bodies, in checking the authenticity of the Certificate of Origin or the invoice declarations and the correctness of the information given in these documents.

Article 4.33 Verification of Proof of Origin

1. The Competent Authority of the importing Party may verify the eligibility of a good for preferential tariff treatment in accordance with its domestic laws, regulations or administrative practices.

2. If the Competent Authority of the importing Party has reasonable doubts as to the authenticity or accuracy of the information included in the Certificate of Origin or other documentary evidence, it may:

- (a) institute retroactive checking measures to establish the validity of the Certificate of Origin or other documentary evidence of origin;

- (b) request information from the relevant importer of a good for which preferential tariff treatment was claimed; or
- (c) issue written requests to the Issuing Authority of the exporting Party for information from the exporter or producer.

3. The Competent Authority of the exporting Party shall provide the information requested under paragraph 2 within a period of 90 days from the date the written request is made.

4. The reply of the Competent Authority of the exporting Party must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in Turkey or Malaysia and fulfil the other requirements of this Chapter.

5. If the reply does not have the necessary details in paragraph 4, the Competent Authority of the importing Party shall provide written advice as to whether the goods are eligible for preferential tariff treatment to the exporting Party within 90 days from the receipt of reply of the exporting Party. The exporting Party shall provide a reply within 90 days from the date of the written advice to the importing Party to make the final decision.

6. If there is no reply from the Competent Authority of the exporting Party within 90 days under paragraph 3 or if there is no reply from the Competent Authority of the exporting Party within 180 days according to paragraph 5 or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the Competent Authority of the importing Party shall, except in exceptional circumstances, refuse entitlement to the preferences.

Article 4.34

Suspension of Preferential Tariff Treatment

1. The Customs Authorities of the importing Party may suspend preferential tariff treatment to goods that are the subject of an origin verification action under this Chapter for the duration of that action or any part thereof.

2. The Customs Authorities of the importing Party may release the goods to the importer subject to any administrative measures deemed necessary, provided that they are not held to be subject to import prohibition or restriction and there is no suspicion of fraud.

3. In the event that a determination is made by the Competent Authority of the importing Party that the goods qualify as the originating goods of the exporting Party, the preferential tariff treatment shall be implemented.

Article 4.35

Penalties

Penalties shall be imposed, in accordance with domestic laws and regulations, on any person who draws up, or causes to be drawn up, a document which contains false information for the purpose of obtaining a preferential treatment for products.

**SECTION 4-G
FINAL PROVISIONS**

**Article 4.36
Sub-Committee on Rules of Origin**

1. A Sub-Committee on Rules of Origin shall be set up under the Joint Committee to assist it in carrying out its duties and to ensure a continuous information and consultations process between experts.
2. The functions of the Sub-Committee on Rules of Origin shall include:
 - (a) monitoring of the implementation and administration of this Chapter;
 - (b) discussion of any issues that may arise in the course of implementation;
 - (c) discussion of any proposed amendments of the rules of origin under this Chapter;
 - (d) consultation on issues relating to rules of origin and administrative cooperation; and
 - (e) discussion on any issues that may arise in relation to the verification under Article 4.33 (Verification of Proof of Origin) which cannot be settled between the competent authorities responsible for carrying out the verification.

**Article 4.37
Transitional Provisions for Goods in Transit and Storage**

Originating goods which are in the process of being transported from the exporting Party to the importing Party, or which are in temporary storage in a bonded area in the importing Party, should be accorded preferential tariff treatment if they are imported into the importing Party on or after the date of entry into force of this Agreement, subject to the submission of a Certificate of Origin issued retrospectively, within 12 months of that date, to the Customs Authority of the importing Party and subject to domestic laws, regulations or administrative practices of the importing Party.

**Article 4.38
Review and Appeal**

The importing Party shall grant the right of appeal in matters relating to the eligibility for preferential tariff treatment to importers of goods traded or to be traded between the Parties, in accordance with its domestic laws, regulations and administrative practices.